

REMARKS

Claims 1-70 and 76-85 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

REJECTION UNDER 35 U.S.C. § 101

Claims 1-80 stand rejected under 35 U.S.C. § 101 for failing to recite patentable subject matter. Applicant has amended the claims to more clearly define the patentable subject matter. Thus, this rejection is respectfully traversed.

As a threshold matter, Applicant respectfully submits that the Examiner entered the §101 rejection the Final Office Action dated October 7, 2008. As such, Applicant was not afforded an opportunity to amend its claims in response to such rejection. Additionally, Applicant submits that such a rejection could have been entered by the Examiner in previous office actions, but were not, thereby detrimentally affecting Applicant's ability to amend its claims. Further, the proposed amendments are of the variety that could have been foreseen by the Examiner at the time the rejection was issued. Thus, pursuant to 37 C.F.R 1.116(b)(3), Applicant demonstrated sufficient reason why the amendment was necessary and was not entered earlier. Accordingly, Applicant respectfully submits amendment to the claims was proper.

Nonetheless, the claims have been amended such that the delivery module is embodied as computer executable instructions on a computer memory, and to limit the delivery of a notification to delivery over an electronic medium to a device proximate to the user. Similar amendments have been made to the remaining independent claims.

It is respectfully submitted, that with respect to claims 1, 36 and 76, the amendment provides a basis for Applicant to overcome the rejection.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-80 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Publ. No.2002/0037750 (“Hussain”). Applicant respectfully submits that Hussain does not teach or anticipate the limitations found in Independent claim 1, and respectfully requests the withdrawal of the rejection with respect to claim 1 and the claims depending therefrom. Specifically, Hussain does not teach “a delivery module operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods, where the delivery method is selected based on the activity information and the environment information.” The Examiner relies on Hussain to teach the claimed delivery module. More specifically the Examiner asserts that the realtime delivery module, disclosed in Hussain, teaches the claimed delivery module. Hussain relates generally relates to providing information relating to a user's status to a content provider. Accordingly, Hussain primarily focuses on the retrieval of the user's status and the communication of the user's status to a content provider via a B2B (Business-to-Business) module.

Applicant respectfully submits that many of the modules contained in the laundry list of paragraph 76, are not described or otherwise taught so as to be considered anticipatory of claim 1. For example, Hussain teaches a “Realtime Delivery Method” but never discloses what the Realtime Delivery Method is or what it does. Rather, Hussain teaches that the RDM interfaces with the DCM (Data Collection Module) and the BAM

(Behavior Analysis Module). Applicant respectfully directs the Examiner's attention to section 2121 of the MPEP, which states "a prior art reference provides an enabling disclosure and thus anticipates a claimed invention if the reference describes the claimed invention in sufficient detail to enable a person of ordinary skill in the art to carry out the claimed invention." Thus, Hussain's silence to the additional limitations of claim 1, renders Hussain as having insufficient detail to enable one having skill in the art to carry out a delivery module that is "operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods."

Furthermore, Hussain is not concerned with the method of delivery of a notification to a user. Hussain, although teaching a realtime delivery module, does not teach a delivery module that must select a method to deliver a notification. Rather, Hussain assumes that the ME (Mobile Equipment) sending the status of the user to the B2B is the same ME that will receive the content from the content provider. Thus, Applicant respectfully submits that Hussain cannot be read to teach "a delivery module operable to select a delivery method for a notification to the user from a plurality of predetermined delivery methods, where the delivery method is selected based on the activity information and environment information." Because Hussain does not teach the claimed delivery module, wherein the delivery module selects a delivery method from a plurality of predetermined delivery methods, Hussain cannot be said to anticipate claim 1.

Additionally, Hussain does not teach an "output operable to communicate a notification to the user in accordance with the selected delivery method." As discussed previously, Hussain does not teach selecting delivery methods. Thus, it would be

impossible to read from Hussain an output operable to communicate a notification based on the selected delivery method. Moreover, the Examiner states that this limitation is taught by a Service Execution Module, namely “the ‘execution’ module would output in accordance with the manner of delivery.” Applicant respectfully submits that nowhere in Hussain is it taught that the SEM interfaces with the RDM (Realtime Delivery Module). Further, Hussain explicitly states that “the Service Execution Module executes the service used, and is internally interfaced with the SDE and the BDSM.” Thus, Applicant respectfully submits that claim 1 and the claims depending therefrom patentably distinguish over the Hussain reference.

For the foregoing reasons, Applicant respectfully submits that the teachings of Hussain do not anticipate claim 1, or the claims depending therefrom. It is further submitted that Claims 36 and 76, and the claims depending therefrom, teach similar subject-matter and include similar limitations to those discussed above. Accordingly, Applicant submits that Claims 36 and 76 patentably distinguish over the Hussain reference and Applicant respectfully requests that the Examiner withdraw the §102 rejection with respect to these claims.

NEWLY ADDED CLAIMS

Applicant has added new claims 81-85, which depend from claim 1. With respect to claim 81, support for the new claim may be found, for example, in paragraphs [0018] and [0022]. With respect to claim 82, Applicant directs applicant's attention to the examples provided in [0022] and [0029] to provide examples of activity categories. With respect to claim 83, support for the new claim may be found in [0021] and [0022]. Support for claims 84 and 85 may be found in paragraph [0019].

Applicant respectfully submits that Hussain does not teach the features of the newly added dependent claims. Thus, Applicant respectfully submits that the newly added claims are in condition for allowance.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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By: Timothy D. MacIntyre
Timothy D. MacIntyre
Reg. No. 42,824

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
(248) 641-1600

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